

necessary to defer issuance of the patent.

[60 FR 20227, Apr. 25, 1995]

§ 1.315 Delivery of patent.

The patent will be delivered or mailed upon issuance to the correspondence address of record. See § 1.33(a).

[61 FR 42807, Aug. 19, 1996]

§ 1.316 Application abandoned for failure to pay issue fee.

(a) If the issue fee is not paid within 3 months from the date of the notice of allowance, the application will be regarded as abandoned. Such an abandoned application will not be considered as pending before the Patent and Trademark Office.

(b) The Commissioner may accept the payment of the issue fee later than three months after the mailing of the notice of allowance as though no abandonment had ever occurred if upon petition the delay in payment is shown to have been unavoidable. The petition to accept the delayed payment must be promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment, and must be accompanied by:

(1) The issue fee, unless it has been previously submitted;

(2) The fee for delayed payment (§ 1.17(1)); and

(3) A showing that the delay was unavoidable. The showing must be a verified showing if made by a person not registered to practice before the Patent and Trademark Office.

(c) The Commissioner may, upon petition, accept the payment of the issue fee later than three months after the mailing of the notice of allowance as though no abandonment had ever occurred if the delay in payment was unintentional. The petition to accept the delayed payment must be:

(1) Accompanied by the issue fee, unless it has been previously submitted;

(2) Accompanied by the fee for unintentionally delayed payment (§ 1.17(m));

(3) Accompanied by a statement that the delay was unintentional. The statement must be a verified statement if made by a person not registered to

practice before the Patent and Trademark Office. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) Filed either:

(i) Within one year of the date on which the application became abandoned; or

(ii) Within three months of the date of the first decision on a petition under paragraph (b) of this section which was filed within one year of the date on which the application became abandoned.

(d) In all applications filed before June 8, 1995, any petition pursuant to paragraph (b) of this section not filed within six months of the date of abandonment of the application, must be accompanied by a terminal disclaimer with fee under § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. The terminal disclaimer must also apply to any patent granted on any continuing application entitled under 35 U.S.C. 120 to the benefit of the filing date of the application for which revival is sought.

(e) Any request for reconsideration or review of a decision refusing to accept the delayed payment upon petition filed pursuant to paragraphs (b) or (c) of this section, to be considered timely, must be filed within two months of the decision refusing to accept the delayed payment or within such time as set in the decision.

(f) The time periods set forth in this section cannot be extended, except that the three-month period set forth in paragraph (c)(4)(ii) of this section and the time period set forth in paragraph (e) of this section may be extended under the provisions of § 1.136.

(35 U.S.C. 6; 15 U.S.C. 1113, 1123)

[47 FR 41280, Sept. 17, 1982, as amended at 58 FR 44281, Aug. 20, 1993; 60 FR 20228, Apr. 25, 1995]

§ 1.317 Lapsed patents; delayed payment of balance of issue fee.

(a) If the issue fee paid is the amount specified in the Notice of Allowance, but a higher amount is required at the time the issue fee is paid, any remaining balance of the issue fee is to be paid

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within three months from the date of notice thereof and, if not paid, the patent will lapse at the termination of the three-month period.

(b) The Commissioner may accept the payment of the remaining balance of the issue fee later than three months after the mailing of the notice thereof as though no lapse had ever occurred if upon petition the delay in payment is shown to have been unavoidable. The petition to accept the delayed payment must be promptly filed after the applicant is notified of, or otherwise becomes aware of, the lapse, and must be accompanied by:

(1) The remaining balance of the issue fee, unless it has been previously submitted;

(2) The fee for delayed payment (§1.17(l)); and

(3) A showing that the delay was unavoidable. The showing must be a verified showing if made by a person not registered to practice before the Patent and Trademark Office.

(c) The Commissioner may, upon petition, accept the payment of the remaining balance of the issue fee later than three months after the mailing of the notice thereof as though no lapse had ever occurred if the delay in payment was unintentional. The petition to accept the delayed payment must be:

(1) Accompanied by the remaining balance of the issue fee, unless it has been previously submitted;

(2) Accompanied by the fee for unintentionally delayed payment (§1.17(m));

(3) Accompanied by a statement that the delay was unintentional. The statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. The Commissioner may require additional information where there is a question whether the delay in payment was unintentional; and

(4) Filed either:

(i) Within one year of the date on which the patent lapsed; or

(ii) Within three months of the date of the first decision on a petition under paragraph (b) of this section which was filed within one year of the date on which the patent lapsed.

(d) [Reserved]

(e) Any request for reconsideration or review of a decision refusing to accept the delayed payment upon petition filed pursuant to paragraphs (b) or (c) of this section, to be considered timely, must be filed within two months of the decision refusing to accept the delayed payment or within such time as set in the decision.

(f) The time periods set forth in this section cannot be extended, except that the three-month period set forth in paragraph (c)(4)(ii) and the time period set forth in paragraph (e) of this section may be extended under the provisions of §1.136.

[58 FR 44281, Aug. 20, 1993, as amended at 60 FR 20228, Apr. 25, 1995]

§ 1.318 Notification of national publication of a patent based on an international application.

The Office will notify the International Bureau when a patent is issued on an application filed under 35 U.S.C. 371, and there has been no previous international publication.

(Pub. L. 94-131, 89 Stat. 685)

[43 FR 20465, May 11, 1978]

DISCLAIMER

§ 1.321 Statutory disclaimers, including terminal disclaimers.

(a) A patentee owning the whole or any sectional interest in a patent may disclaim any complete claim or claims in a patent. In like manner any patentee may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted. Such disclaimer is binding upon the grantee and its successors or assigns. A notice of the disclaimer is published in the Official Gazette and attached to the printed copies of the specification. The disclaimer, to be recorded in the Patent and Trademark Office, must:

(1) Be signed by the patentee, or an attorney or agent of record;

(2) Identify the patent and complete claim or claims, or term being disclaimed. A disclaimer which is not a disclaimer of a complete claim or claims, or term will be refused recordation;